

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY HANNI,	:	
	:	
Petitioner,	:	
	:	CIVIL ACTION
v.	:	
	:	
HARLEY V. LAPPIN, et al.,	:	05-cv-3856
	:	
	:	
Respondents.	:	

MEMORANDUM

Baylson, J.

October 25, 2005

Anthony Hanni, the Petitioner in this proceeding, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on July 26, 2005. Petitioner is currently serving a twenty-four (24) month sentence handed down by the Honorable Franklin S. Antwerpen on May 20, 2004 after he pled guilty to conspiracy to defraud the United States, illegal gambling, conspiracy to commit money laundering, and money laundering. United States v. The Order of Fleas, No. 04-cr-00077 (E.D.Pa. May 20, 2004). He is serving out his sentence at the Federal Correction Institution at FCI - Schuylkill in Minersville, Pennsylvania, which is located within the Middle District of Pennsylvania. (Pet. at ¶1). He is scheduled to be released on February 16, 2006. Id. at ¶2. The Petitioner challenges the Bureau of Prison's ("BOP") decision to permit Mr. Hanni to serve out only the last two months of his sentence at a halfway house, which would begin on December 13, 2005. Id. at ¶3. Instead, Petitioner asserts he was eligible for transfer to the halfway house for the last six months, which would have begun August 13, 2005.

This Court referred the case to Magistrate Judge Thomas J. Rueter ("the Magistrate Judge") on August 8, 2005. On August 29, 2005 (Doc. No. 4), the Government filed a Motion to Dismiss or Transfer Petition for Writ of Habeas Corpus. On August 31, 2005, the Magistrate Judge issued a Report and Recommendation ("R&R") (Doc. No. 6) suggesting that this Court transfer the case to the United States District Court for the Middle District of Pennsylvania. (R&R at 2-3). Citing the Supreme Court's decision in Rumsfeld v. Padilla, 542 U.S. 426, 124 S.Ct. 2711 (2004), which held that habeas petitions must be filed "within the district of confinement," the Magistrate concluded that the Middle District—not the Eastern District—is the proper venue. (R&R at 3, citing Padilla, 124 S.Ct. 2711). He also reasoned that transfer is appropriate because the Middle District is more convenient for all the parties to the case. Id. The Petitioner filed Objections to the R&R (Doc. No. 7), urging that "this court has subject matter jurisdiction" and should decide the case on the merits because some of the named respondents employed by the BOP have offices in Philadelphia. Objections at 1.

In Padilla, the Supreme Court held that "whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement." Padilla, 124 S.Ct. at 2724. Interpreting the provisions of 28 U.S.C. § 2241(a), which provides that district courts are limited to granting habeas relief "within their respective jurisdictions," the Court concluded that this language requires petitioners to file in the district where they are confined. Id. at 2722-23. Further, the Court rejected the notion that the language refers to subject matter jurisdiction – as Petitioner Hanni contends in his objections – and instead is best understood "as a question of personal jurisdiction or venue." Id. at 2727 (Kennedy, J. concurring). See also In re Mendez,

137 Fed. Appx. 502, 503 (3rd Cir. 2005) (non-precedential decision noting that, pursuant to Padilla, petitioner could only file a 28 U.S.C. § 2241 habeas petition challenging his civil commitment for mental incompetency in the jurisdiction where he was confined, which was the E.D.N.C.); Thornton v. U.S. Parole Com'n, No. 04-5154 (E.D.Pa. Feb. 25, 2005) (order adopting Magistrate Judge's report and recommendation, 2005 WL 272973, at *2-3 (E.D.Pa. Feb. 2, 2005), to transfer case to the Middle District of Pennsylvania because under Padilla, court lacked jurisdiction to review habeas claim challenging parole decision where petitioner was housed at facility in the other district.).¹ We agree with Petitioner that this court has subject matter jurisdiction, as habeas relief is clearly a federal question. Furthermore, this court has personal jurisdiction over the FCI-Schuylkill warden as he is located within Pennsylvania. See Garcia v. Pugh, 948 F.Supp. 20, 22 (E.D.Pa. 1996). However, as Padilla creates a clear venue requirement, the petition must be decided in the Middle District, where both Petitioner and his custodian are located.² Additionally, we find compelling the Magistrate Judge's reasoned conclusion that the Middle District is also a more appropriate for the convenience of the parties and witnesses in this case.

Therefore, upon independent and thorough consideration of the administrative record and all filings in this Court, Petitioner's objections are overruled, the recommendations by the

¹Moreover, to the extent that Petitioner argues in his objections that he named respondents with offices in Philadelphia, Padilla also makes clear that there is "generally only one proper respondent to a given prisoner's habeas petition" – "the warden of the facility where the prisoner is being held." Id. at 2717-18. Therefore, it appears that only Ronnie Holt, the Warden of FCI - Schuylkill, and not BOP officials in Philadelphia, is the proper respondent. However, we will leave that decision to the district court that will decide the merits of the case.

²Schuylkill County is in the Middle District of Pennsylvania. 28 U.S.C. § 118(b).

Magistrate Judge are accepted, and the action will be transferred to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§1406(a), 1404(a).

An appropriate Order follows.

**N THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY HANNI,	:	
	:	
Petitioner,	:	
	:	CIVIL ACTION
v.	:	
	:	
HARLEY V. LAPPIN, et al.,	:	05-cv-3856
	:	
Respondents.	:	

ORDER

Baylson, J.

AND NOW, this 25th day of October, 2005, upon careful and independent consideration of the pleadings and record herein, and after review of the Report and Recommendation of the United States Magistrate Judge Thomas J. Rueter pursuant to 28 U.S.C. § 636(b)(1)(c), it is hereby:

ORDERED

1. The Report and Recommendation (Doc. No. 6) is APPROVED and ADOPTED;
2. The Petitioner's Objections to the Report and Recommendation (Doc. No. 7) are OVERRULED; and
3. The Government's Motion to Dismiss or Transfer Petition for Writ of Habeas Corpus (No. 4) is GRANTED as to the issue of transfer.
4. The action will be transferred to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C. §§1406(a), 1404(a).

BY THE COURT:

s/Michael M. Baylson
MICHAEL M. BAYLSON, U.S.D.J.